IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 16.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.1026 of 2006

N.Sivanesan ... Petitioner

Vs.

1.The Inspector of Police,
G5 Police Station,
Secretariat Colony,
Kilpakkam, Chennai-12.

2.The Inspector of Police,
Thottiam Police Station,
Kattuputhur,
Trichy District.

3.R.Vijayaragavan

4.R.Parthiban ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents to produce the detenue Archana, aged 22 years, who has been kept in illegal custody, before this Court and set her free.

For Petitioner : Mr.S.Mohanakrishnan

For Respondents 1 & 2 : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name N.Sivanesan, has filed this petition under Article 226 of the Constitution of India directing the respondents to produce the detenue viz., Archana, aged about 22 years, who has been kept in illegal custody, before this Court and set her free.

2. In the affidavit filed in support of the above petition, it is stated that the petitioner, who is working in Bank of Punjab, Egmore, Chennai and the detenue Archana, aged about 22 years, daughter of the fourth respondent, loved each other. She is also employed in a private Bank. The petitioner married her on 20.09.2006 in Arulmighu Laxmi Amman Alayam, M.H. Road, Chembiam, Chennai-11, in accordance with Hindu Sastras and lived as husband and wife in 138, Subbarayan Main Road, Nammalvarpet, Chennai-12. Whileso, on 22.09.2006, the third and fourth respondents, with their men, at about 7.30 p.m., entered into his house and forcibly kidnapped his wife Archana. against her wish. He has reported this matter to the first respondent on 23.09.2006. The first respondent assured that he will take appropriate action. But he has not issued any receipt. The detenue Archana is in the illegal custody of the fourth respondent, who is her father, against her wish. In such circumstances, the petitioner, having no other remedy, has filed the present petition.

3. When the above petition came up for hearing on 12.10.2006, it was adjourned to today. Today, the learned Additional Public Prosecutor has brought to our notice that the detenue Archana made a complaint even on 25.09.2006 against the petitioner and four others, wherein she alleged that on 19.09.2006, the petitioner approached her and requested her to marry him. She refused to accede. It is further stated that on 21.09.2006, the petitioner and four others took her to a nearby hotel and forced her to take a cool drink. After taking the cool drink, she felt unconscious and after some time, she realised that she was taken in a White Maruti Zen Car. She has objected to the activities of the petitioner and his friends. She was forcibly taken to the nearby Registrar Office, where her signature was obtained under threat. She denied the claim of the petitioner that the marriage was performed on 20.09.2006 and the subsequent registration on 21.09.2006 with the Office of the Registrar of Marriages. She also requested that necessary action may be taken against the petitioner and his friends for kidnapping her and getting her signature forcibly in the Office of the Sub Registrar of Marriages. The said complaint was received by the Deputy

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

Commissioner of Police, Cantonment Police Station, Trichy and subsequently transferred to the Inspector of Police, F4 Thousand Lights Police Station, and a case has been registered in Crime No.1023/2006 on 26.09.2006 for the offences under Sections 366, 342 and 506 (ii) IPC.

4. The learned Additional Public Prosecutor, by placing the complaint of the detenue and the copy of the First Information Report, has submitted that based on the same, the case is being investigated by the Inspector of Police, F4 Thousand Light Police Station, Chennai.

5. On going through the claim of the petitioner as stated in the affidavit, the arguments of the learned counsel for the petitioner, photographs said to have been taken at the time of the marriage, original complaint of the detenue, registration of the case and the subsequent investigation thereof by the Inspector of Police, F4 Thousand Light Police Station, we are of the view that the issue raised/grievance expressed cannot be gone into by this Court in a Habeas Corpus Petition. Though the petitioner has stated that the detenue by name Archana is in the illegal custody of the fourth respondent, first of all, the fourth respondent is none else than her father and secondly, in the light of the complaint by the detenue regarding the conduct of the petitioner and his friends, viz., kidnapping her, taking her to the hotel and to the temple and finally to the Office of the Registrar of Marriages, we are satisfied that there is no need to issue notice to the respondents. In view of the case and counter claim by the petitioner and the detenue, we are of the view that the matter in issue cannot be agitated in this Court that too by way of Habeas Corpus petition.

6. With the above observations, this petition is dismissed.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

To

1.The Inspector of Police,
G5 Police Station, Secretariat Colony,
Kilpakkam, Chennai-12.

2.The Inspector of Police,
Thottiam Police Station, Kattuputhur,
Trichy District.

3. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr. S. Mohanakrishnan, Advocate SR No. 47957

JRG(CO)
SR/27.10.2006 HCP. No.1026 of 2006

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/